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Board Meeting – January 27, 2014

21st Floor – Conference Room 1

Present Board Members:

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Myra Berloff, Massachusetts Office on Disability (MB)
- Diane McLeod, Vice Chair (DM)
- Andrew Bedar, Member (AB)
- Carol Steinberg, Member (CS)

and

- Thomas Hopkins, Executive Director
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

Members Not Present:

- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)

- Meeting began at 9:30 a.m.

1) **Incoming:** Yawkey Way Train Station, 85 Brookline Ave., Boston (V14-011)

- TH
- EXHIBIT – variance application
 - new station
 - seeking variances to platform widths in 7 locations
 - require 60” of clearance
 - there are 7 areas ranging from 44” to 59”
 - argument for technological infeasibility is based on the land and the trapped position and what was available

MB - why was this not submitted prior to the work being done?

TH - other issues that required fixing have been completed

MB - biggest problem is the narrowest dimension of 44”
- so people that use the elevator

CS - *grant the variance for all 7 locations requested on the condition that a policy in place that commuters are not dropped off at the end of the platform; based on tech. infeasibility*

DM - *second – but unsure of reasoning behind tech. infeasibility*

MB - *ok, with it because the narrowest area is at the end of the platform, but should be based on exc. cost without substantial benefit*

CS - *ok, change to excessive cost without substantial benefit*

WW - *add that the conductors be trained and instructed to approach people in wheelchairs, and ask them where they are getting off, and if they are getting off at Yawkey Station, then have the conductors put them in the car that will be closest to the elevator*
- *carries with DM opposed*

CS - *send appreciation notice to State Inspector Andrew Majuri*

AB - *second – carries*

CS - *as we have told them many times before*

DM - *second –carries*

Raymond Glazier, Executive Office on Elder Affairs Designee (RG) – Now Present

2) Incoming: Commercial Building, 29 Harvard St., Brookline (V14-004)

TH - EXHIBIT – variance application
- 3 story building
- spending over 30% of the value of the tenant space
- existing elevator in the building, seeking relief to the cab size (42” by 50” provided)

AB - *grant based on tech. infeasibility*

MB - *second - carries*

3) Discussion: Stonewood Tavern, 139 Lynnfield St., Peabody (V13-218)

TH - EXHIBIT – new submittal from Petitioners
- submitted shop drawings, but need plans for the installation

AB - *approve the submitted shop drawings, but require the submittal of architectural drawings for the installation of the lift at the stage, to be submitted by February 7, 2014*

RG - *second –carries*

DM - expedite
MB - second – carries

4) Incoming: New Restaurant, 75 Ames St., Cambridge (V14-008)

TH - EXHIBIT – variance application

- new mixed use building
- 250,000 square feet
- tenant fit out for 3,751 square feet
- proposing vertical wheelchair lift to the mezzanine level of the restaurant
- only 39 seats proposed at the mezzanine level

MB - grant as proposed
DM - second- carries

DM not present

5) Incoming: Commercial Building, 95 Park St., Attleboro (V13-343)

TH - EXHIBIT – variance application

- new building
- first floor is one tenant space that can be split into two tenant spaces, second floor is two apartments
- seeking variances for 2 of the sloped entrances, proposing automatic door openers
- 22% and 11%

MB - grant relief for the 11% slope, on the condition that they have an automatic door opener
AB - second – carries with DM not present

MB - deny the variance for the 22% slope, have them submit redesign within 30 days receipt of the decision of the Board (by February 21, 2014); look into occupancy permit, if not occupied, want to remain unoccupied until matter with the Board is finalized

AB - second - carries with DM not present

DM now present

6) Incoming: Blackington Building, 572 Main St., Sturbridge (V14-007)

TH - EXHIBIT – variance application

- old historic building, requirements for sprinklers triggered full compliance
- complete relief from the regulations sought
- they are suggesting some time relief, 3 years for the entrances, and 5 years for vertical access
- seeking 27 variances
- it was vacant and they are bringing it back to commercial use

- \$256,000 estimate for the building of a walkway to create access at the front
- \$339,000 estimate for 2-stop elevator

MB - deny and schedule a hearing notify the owner that no occupancy will be granted without access into the building, submit a full set of plans with realistic cost estimates, submitted prior to the scheduled hearing

DM - second – carries

7) Incoming: Quincy Market Place, North Building; Ghirardelli (V13-341) and Chipotle (V13-344), Boston

TH - EXHIBIT – variance applications

- Ghirardelli spending over 30% of tenant space
- required vertical access within the tenant space
- want to rely on common elevator to access the two levels of the building
- same for Chipotle, spending over 30% of tenant space as well
- both within 10-20 feet of the store entrances

MB - want the second floor doorways to be welcoming to the space, not to seem like an egress only

MB - more information regarding if internal stairs are provided, where the toilet rooms are located and how the second floor tenant spaces will be laid out; received by the Board by no later than February 7, 2014 for both

CS - second - carries

8) Advisory Opinion: 468 Main St., Acton

TH - EXHIBIT – letter from Building Inspector, Frank Ramsbottom

- question regarding handrail extensions
- argument between building official and building owner, he notes that the extension at the lift would be a hazard, but that all other extensions should be provided

MB - agree with the building inspector, only one hazard for an extension and all other extensions should be provided

AB - second - carries

9) Discussion: Cases of the Day

CS - challenging our jurisdiction?
- it has been before us before

TH - need a plan for compliance

CS - AG & AJ Realty

TH - seeking time to comply with the applicable requirements

CS - Mandela?
TH - about distribution

MB - issue is not with proposal to DHCD about funding, they can ask for funding with different distributions proposed for accessible units

TH - we have been told that they can't lose beds

MB - they can't lose beds when they propose a certain number of beds to DHCD, they could have proposed alternate number of beds to DHCD

CS - what is the basis?
TH - technologically infeasible

MB - they have given the numbers to DHCD based on the proposal submitted, if they had not proposed as many beds then could be changed
- at 20 years, want to maintain as subsidized housing because they agree to it, because they proposed it
- want to know how many accessible 4 bedroom units are provided in the state

TH - been relied on statistics from Housing Department, that 4 bedroom accessible units not often requested

CS - Cunard Building, did not seem like a large change in level

10) Incoming: Richmond Hardware, 899, 911, 913 & 915 Washington St., Braintree (V14-002)

TH - EXHIBIT – variance application
- modernization of front façade
- created 18" latch pull side clearance
- slope is less than a percent, don't believe variance is necessary
- jurisdiction is work performed
- all of the entrances are subject to the variance
- the Braintree Disability Commission weighed in on the variance application, and noted that they supported the variances requested, on the condition that automatic doors with sensors were provided

MB - no mitigation necessary

CS - *assuming that 18" provided at all entrances and the slope at the entrances is less than 1%, then no variance is required*

AB - *second – carries*

CS - thank the Commission for their comments, but since the slope is so slight, no variance is required

11) Incoming Discussion: Concord Outfitters, 113 Commonwealth Ave., Concord (V13-339)

TH - EXHIBIT - new submittal

- raised the foundation 14" to create 2 steps at the front of the building, but fully accessible entrance at the rear

- if denied, need temporary CO to occupy the space by March 1, 2014

- new plans show lifts and ramps installed

CS - why did we deny previously?

TH - there wasn't enough of an argument

MB - what does the back of the building look like?

TH - the parking is there

MB - grant relief to the inaccessible front entrances, provided that plans are submitted, showing the rear entrances; would like clear dimensional drawings of the rear entrances, want an awning and lighting shown (want to see photographs that show that what was created was a secondary primary entrance versus a back entrance); want to know that the rear entrance is open at the same time as front entrance, want to see interior (submit photographs) of rear entrance and make sure that route is not through a storage area, directional signage; no CO (of any kind) until all of this work is done and verified.

AB - second - carries

Break in the Meeting

12) Hearing: Saus, 33 Union St., Boston (C13-061)

WW - call hearing to order at 11 a.m.

- introduce the Board

Raleigh Eastwick, Phillip & Normandy, Building Owner Representative (RE)

WW - RE sworn in

- EXHIBIT 1 – AAB1-21

TH - originally came to the Board in 2010 for some specific variance relief

- at that time, triggered entrance to the building to comply

- there is an existing lip at the entrance

- due to lack of response to notification that entrance would need to comply, AAB Staff generated complaint was filed

- there was disagreement with the values

DM - was that done new?

RE - that section of the sidewalk was deteriorating, main sprinkler system comes into the building from this location, so had to do an emergency repair to that section of the sidewalk in front of the entrance; should have been tapered at that time

TH - so just recently did work; work was done that could have remedied that lip at the front of the building

RE - can add some cement to slope up to the existing lip

CS - find in favor of the Complainant

RG - second – carries

RE - can do the work required by March 1st

MB - have the change in level mitigated by March 1, 2014, with documentation submitted to the Board verification received by the Board on March 7, 2014; with notice of the decision to be sent to the Landmarks Commission as well

DM - second – carries

RG - expedite

MB - second - carries

13) Discussion: Decisions and Minutes January 6, 2014

KS - one change from CS and need to extend date for Medford case

CS - accept minutes and decisions with one change and extension to February 7, 2014 for Medford case

MB - second – carries

14) Incoming Discussion: 6 Family Building, 615 East 6th St., South Boston (V13-264)

TH - EXHIBIT – variance application

- originally presented previously, sought variances to the front entrances

- proposing a lift at the rear entrance with adjacent parking at the rear

- submitted follow-up material with ramp proposed to the rear entrance and the two ground floor units are townhouses

- asked to schedule an expedited hearing, and hold the occupancy permit

- was told that code consultant and attorney are willing to sue the Board since these are “townhouses”

- some time ago we had a request about the interpretation of 10.3

- interpretation that cannot go beyond the requirements allotted in the lot

- would like to put advisory on the website, need to issue it stating that rely on the definition of townhouse from 780 CMR

MB - clarification in order to be consistent with all state building codes; in order to eliminate confusion, the Board is advising that its definition of "townhouse" is consistent with that found in 780 CMR

CS - second – carries

MB - grant the lack of access at the front entrance on the condition that proposed rear entrance is provided as proposed at the rear, compliant with 521 CMR 24; and cancel scheduled hearing;

DM - second – carries

MB - with photographic documentation of the ramp to be submitted to the Board by April 1, 2014; or a fine hearing will be scheduled

DM - second – carries

15) Discussion: Whitman Park, Whitman (C13-000)

TH - EXHIBIT – pictures of site visit
- the Town needs time to provide a response
- need additional time to respond to the Board
- March or April 1st
- need to figure out paths of travel, the bandstand, and curb cuts
- jurisdiction is work performed

CS - what about the benches?

TH - we are going to dismiss that item, since there is no specific language within 521 CMR regarding benches

CS - extend date for plan for compliance or variance to be submitted by May 1, 2014

AB - second – carries with MB abstaining

16) Discussion and Incoming: Number 4 Schoolhouse, 209 Farmington Rd., Barre (C14-004 and V13-006)

TH - historic tiny schoolhouse, with no running water or electricity
- spending over 30%
- EXHIBIT –variance application
- not done with the work
- meant to be a school building museum
- Senator Brewer's office contacted the Board over a year ago about this matter so have been waiting for the variance
- they want to use a portable ramp upon request
- Scott Ricker filed a complaint and has been asking about the issuance of a First Notice
- but the variance is a tacit admittal that the work does not comply
- the building is currently not open
- what should we do with the complaint?

MB - can't take a complaint for a project under construction...the work is ongoing

CS - *dismiss the complaint since the building is not yet open to the public*

DM - *second- carries*

CS - *have the Petitioners submit information regarding the use of a portable ramp (with video and website proposal submitted as proposed), prior to the issuance of an occupancy permit*

DM - *second – carries*

TH - policy is too strong, planned large public events shall require that the portable ramp just be in place

CS - *regarding #2 on the policy submitted to the Board, individual usage can be requested via an email; but that if a public event is being held, then the temporary ramp shall be put in place for the duration of that event*

DM - *second - carries*

17) Hearing: AG & AJ Realty, 336 Union Avenue, Framingham (V13-080)

WW - called to order at 1 p.m.

- introduce the Board

Peter Barbieri, Esq., Fletcher Tilton PC (PB)

Manos Tsagarakis, Owner (MT)

John Lyons, Architect (JL)

WW - all sworn in

- EXHIBIT 1- AAB1-53

TH - on Friday, January 24th, received very large packet regarding this case

- the e-mail document was too large to send the whole thing, but did forward along the letter from the attorney

- the Petitioners are now seeking a time variance

- split level building, some tenant spaces that are and are not open to the public

- there are two copies of the submittals

- will pull out the letter from Mark Hughes of the Framingham Building Department which called out the jurisdiction in the matter

WW - EXHIBIT 2 – January 26th submittal from John Lyon

PB - there was a lot of miscommunication

- (history of the case)

- met with Mr. Hopkins last Tuesday about the most recent submittal

- the numbers of fixtures on the first floor were reduced by one

- the basement level will be converted to a unisex toilet room; but may need a variance from the plumbing board for that requirement
- AAB23 is pictures of the entrance into the building
- main entrance to the building is at the rear, adjacent to the parking lot
- bathrooms at the basement are 6-7" above the basement floor level
- proposing a ramp to the bathroom and will make that bathroom the unisex accessible toilet room, with the entrance doorway to the ramp to be replaced to be wide enough
- the proposed ramp will only be 36" wide due to existing corridor width

CS - medical facility at the basement level

- PB
- nothing medical at the basement level, just a lab
 - cannot raise the entire lower level

DM - grant the variance for the ramp proposed to the proposed basement level unisex accessible toilet room, to allow 36" between the handrails

MB - second, on the condition that 5' level landing provided at the door to the bathroom – carries

- PB
- first floor bathrooms (two existing), which are adjacent to an existing office
 - cannot move the wall back without losing space there

TH - variance is for the overall room dimension

- JL
- 5' 3 1/4" and 10' 2 1/4" overall dimensions
 - turning radius is available within the toilet room

CS - there is also a staff bathroom?

PB - no, need to consolidate those existing two toilet rooms open to the public, which is the reason for the potential variance from the plumbing board, for reducing from one for each sex down to one unisex

PB - submittal of email from Hughes regarding bathrooms

WW - EXHIBIT 3

MB - grant the variance for the dimensions of the bathroom and require a 180 degree hinge on the door, and that the Board would support a variance requested to the plumbing board regarding the reduction of fixtures

DM - second – carries

- PB
- need time to comply
 - (explanation of costs)
 - proposing to spend \$20,000 in the first year, focused on the medical level
 - year two proposing to finish basement level ramp and upgrades to lower level

- proposing by year 5 to put the lift in, at a minimum cost of \$50,000
- DM - no other access other than the split entrance?
- PB - even 3-4 stairs from Union Avenue
- JL - no matter which end of the building, all entrances with steps
- MT - wanted to put a ramp in at the rear entrance as an easier way to assist with older patients
- MB - permits were not allowed, how much work was done prior to this
- PB - got a recommendation from the group on an architect and work was done in 2011
 - total was \$118,000
 - was told by the Building department that variances needed from AAB
 - all the work done was not accessible, with the approximately \$87,000 spent at the first floor medical offices
- MB - adjustable medical exam table?
- MT - not to my knowledge
 - nobody recommended that when she bought the new equipment
- AB - 3 stop vertical wheelchair lift?
- JL - also will need some variances for the lift
- TH - 3 stop lift, with middle stop at grade
- MB - but if not fully compliant, need to know what variances are required
- MT - was resurfaced at the parking lot to make level up to the entrance
- MB - so does the parking comply?
- JL - no signage provided
- CS - how long for the installation of the lift
- TH - they are seeking 5 years
- PB - can get the money to do \$20,000 a year, and lift would be \$50,000
- CS - *first item done is the installation of the lift to be completed by February 1, 2015*
- AB - *second –*
- MB - *can't be done in a year...financially, won't get that far; lower level bathroom is not as critical as upper level bathroom and certainly not as critical as getting into the space*
 - *eventually making the lower level bathroom accessible is important, but one accessible bathroom at the first floor and the lift would be much more significant*

AB - *withdraw second*
- *motion fails*

MB - *continue this discussion to have the Petitioners submit more information regarding revisiting the plan, to show access into the first floor sooner than later, with the additional information submitted to the Board,*

TH - *need more copies of the submittals that were submitted on Friday January 24th*

WW - *submit by March 14th*

MB - *continue for the Petitioners to submit more information regarding the proposal for compliance, with updated timelines, starting with the lift, then accessible toilet room at the first floor, accessible exam table, and then lower level last, with all to be submitted by March 14, 2014*

DM - *second – carries with CS abstaining*

KS - still outstanding outright variances sought

PB - need these for our cost estimates, because they are based on the variances being granted

MB - dimensions of the lift
- landing dimensions are off at the entrance levels

MB - *grant relief on the dimensions of the level platforms at the*

DM - *second – carries*

KS - handrail variance?

MT - all the handrails will be fixed and made compliant

MB - need to know when the handrails will be done

RG - is there public parking on Union Avenue

RB - if there is, it is very limited

- leads to Route 9

- if there was a parking space at the front, could they possibly provide a temporary ramp into the building

PB - it would enter into the back of the building

18) Hearing: Mandela Homes, 1855 Washington Street and 10 Hammond Street, Boston (V13-258)

WW - called to order at 2:15 p.m.

- introduce the Board

Gerard Frank, Bechtel Frank Erickson Architects (GF)

Dominic Marinelli, United Spinal Association (DMa)

WW - both sworn in
- EXHIBIT 1 – AAB1-16

DMa - spending over 30%
- in both state and federal obligations, have to provide one of each type of unit as accessible
- seeking to not provide one accessible 4 bedroom units
- new plans show the effects of the creation of a 4 bedroom unit, proposing additional accessible 3 bedroom unit
-all 4 bedrooms are a multi-level units (townhouse), all other units are flats

GF - AAB13 plans
- submittal of new plans

WW - EXHIBIT 2, 1/24/14 plans

GF - clear space of 6' 9"

WW - all the four bedroom units are all townhouses?
GF - yes

CS - plan of three bedroom units?
GF - yes AAB14

DMa - were originally concerned that accessible toilet room would not comply, but it is now compliant

CS - any statistics about waiting lists for 4 bedroom units

GF - have not heard anything about waiting for 4 bedroom units

CS - would like to know what there is in the overall stock for accessible 4 bedroom

GF - but require 7 feet of minimum clear space for legal bedroom

AB - 3 bedroom bathroom?

DMa - was able to push the lav over far enough so that there is no overlap

GF - no, the lav was moved so that the clearances are provided within the bathroom in the three bedroom units

MB - 14 accessible units; seems to be a lot of studios and not as many larger units
- 90 3 and 4 bedrooms provided, only proposing 2 accessible 3 bedroom units
- need larger units for families with accessibilities

DMA - breakdown on AAB4,

MB - two accessible studios based on only 14 provided in the portfolio; don't understand that
- 90 larger units, and of those, only proposing 2 that are accessible and they are 3-bedroom
- would like to see 3 accessible 3 bedroom units

DMA - demand for 1 and 2 bedrooms is higher

MB - would prefer to get rid of one of the studios and create another accessible 3 bedroom unit

DMA - so provide another 3 bedroom unit by taking one of the 1 bedroom units
- would like to have 2 studios to provide multiple accessible options in that space

MB - there are 114 1 bedroom apartments and only 14 studios; so don't see offering 2 out of the 14 studios as accessible, need one bedrooms, so need to take one of the studios to make another accessible 3 bedroom unit

MB - grant the variance for the lack of accessible 4 bedroom units, based on technological infeasibility; and on the condition that provide the following accessible unit 1 studio, 7 1 BRs, 3 2 BRs, and 3 # BRs

CS - second – carries

19) Incoming: Depot Diner, 147 Waverly St., Framingham (V14-010)

TH - EXHIBIT- variance application
- spending over 30%
- renovating for a new restaurant tenant
- seeking 3 variances
- bathroom variance for 30.2, public toilet rooms in the basement, proposing unisex accessible bathroom at the ground floor

MB - accept the unisex toilet room at the ground floor with dimensions as proposed

AB - second – carries

MB - grant variance for the location of the lower level toilet rooms (30.2)

AB - second – carries

No more DM

TH - two mezzanines
- one is 800 square feet and the other is 1200 square feet

MB - deny the variance for the lack of access to the upper level mezzanine

CS - second

MB - they want functions up there
- understand the fact that they can't put elevator or LULA in

TH - they show the damage of installing an elevator
- been a restaurant for years, just want permission to use the mezzanine for functions and not provide vertical access to it
- can require that space be provided at the first floor

MB - grant the variance for the lack of vertical access, on the condition that on their advertising, they indicate that there is no vertical access to the mezzanine level, and that functions can be held at the first floor if necessary, submitted to the Board within 30 days receipt of the decision of the Board

AB - second – carries

20) Incoming Discussion: Colby Hall and Chapel, 141 Herrick Rd., Newton (V13-328)

TH - EXHIBIT – new submittal
- on 1/6 voted to schedule a hearing
- seeking a sooner hearing and a request for a letter to the inspector to allow for the issuance of permits to allow the work to proceed, understand that the work proceeding is at risk
- would like to be moved up the hearing

MB - allow the issuance of building permits at his own risk

AB - second – carries

21) Hearing: The Cunard Building, 120-126 State St., Boston (V13-265)

WW - called to order at 3 p.m.
- introduce the Board

Glenn Morris, Morris Architects (GM)

WW - GM sworn in
- EXHIBIT 1 – AAB1-23

GM - built in 1906
- originally the US Headquarters for Cunard Cruise Lines, which moved to NY
- currently there are 9 residential units for the 3, 4, 5 floors, 6th floor is being renovated for residential units
- 2nd floor is office space
- ground floor and first floor was a barber shop, a tanning salon, a night club and an eyeglass store
- looking to put money into the building and replace the windows, roof and elevator

- as part of the renovations, been looking to increase the accessibility of the building at the ground and first floor, neither lines up with the sidewalks
- one is 6-7' below sidewalk and 4-5' above sidewalk
- main entrance to the building serves all tenant spaces
- there are doors that are 2'10" apart and a vestibule between the inner and outer doors is approximately 2'10"
- going to be removing both sets of doors and the vestibule, and proposing to put in new set of doors to line up with the wood doors seen on AAB11
- AAB22, looking to replace front set of doors, and eliminate doors into the retail areas and add a lift to the right of the entry stairway
- looking to add direct entrances from the street into the retail spaces
- also proposing to replace the elevator
- when entering the building, could use lift and either visit one of the two first floor tenant spaces, or take the main elevator down to the two ground floor tenant spaces
- the new entry will comply with size of the doors
- there is a curb of 2 1/2 inches between sidewalk and entry level
- looked at ways to shave that area down to create a slope up to the doors
- the entry level will not be a level landing in front of the entrance doors
- the City is also currently planning to replace the sidewalks on State Street, would like to have them raise the level to the level of that platform
- do have a 3 foot area at the front of the entrance doors, but will not be level, even when sloped
- nosings at the existing stairs
- tile of the stairs in disrepair, on the existing steel riser
- even when tile removed, nosing will extend an inch

- MB
- like the lift plan
 - understand the 2 1/2 inch rise into the doorway
 - can't agree to grant you 2 1/2 inch rise into the doorway if it is not going to be mitigated
 - would grant for the lack of level landing with an automatic door opener

- GM
- right now it is controlled access so all doors are operated on a buzzer
 - there will be an intercom system
 - can lower the floors at the new doors at the retail area
 - problem at the main entrance is the vault with the gas and electrical entry equipment for the building

- MB
- main entry would be secondary into retail

- GM
- primary entrance into the retail spaces that will be create will be at grade into the building and then steps up and down into the retail spaces
 - first floor is 4 feet above the street level
 - ground floor is 7 feet below grade

- MB
- all entrances are required to be accessible
 - accessible entrance has to take you to an occupiable space

- the accessible entrance is not generally available with unimpeded vertical access
- need to create access into the retail spaces

GM - the alternate is to have a lift at each of the new entrances to the retail spaces and then not provide the main entrance lift up to the elevator

AB - why would the center lift be removed?

- GM - because not required
 - could do the lifts at each entrance

TH - what about locking out the elevator for the public and the tenants

- GM - that would work down to the elevator but not for the stairs, that empty right into that elevator lobby

AB - why can't slope?

- GM - did not get very far with the City, but did talk to the contractor that was hired

TH - why are they rebuilding the sidewalks?

- GM - rebuilding all of State Street and Broad Street sidewalks

TH - who did you speak with?

- GM - the property manager contacted the City, so not sure

GM - second floor is conference room that is used by 148 State Street business and only used by their employees

CS - continue to have the Petitioners submit plans and cost for the installation of lifts at the two newly proposed entrances, submitted by February 7, 2014

AB - second – carries

CS - require that the consulting group submit a sworn affidavit that states that employee-only space at the second floor, by February 7, 2014

MB - second – carries

MB - expedite

RG - second - carries

22) Discussion: House of Correction, Building #2, Billerica

- TH - propose to submit the application by February 7th, third extension for the submittal of the variance application
- when the matter originally came before the Board, permits weren't issued until after first extension
 - proposing to be complete by April
 - cannot issue another extension

- because of the delays they have had more time to propose to correct some items, originally proposed 100 variances, then 40, and will see on Friday what the final variance request is for

MB - to grant an extension to allow until February 7, 2014, but this will be the last extension for submittal allowed; but please note that the delay in submitting the variance could result in failure of the issuance of an occupancy permit

AB - second - carries

23) Discussion: 104 Newbury St., Route 1, Peabody

TH - EXHIBIT - submittal of affidavit
- on-slab metal building
- second floor is storage and employee space

MB - accept the affidavit on the condition that recorded within 60 days with local registry of deeds

AB - second - carries

24) Incoming: 8 Prescott St., Cambridge (V13-340)

TH - EXHIBIT – variance application
- second and third floor are private residential units
- first floor is office space open to the public for student groups and Harvard students
- previously granted a variance in 1988
- now renovating the building again
- historic front entrance
- plan is to tear out existing ramp and create a ramp next to the entrance stairs, goes to rear entrance
- first floor all complies otherwise

CS - grant the variance, on the condition that the ramp is built as proposed

AB - second – carries

25) Incoming: Atrium School, 69 Grove St., Watertown (V13-345)

TH - EXHIBIT – variance application
- existing building renovation, but found that spent over 30% in the past 36 months
- creating additional school space at the basement level
- there is an existing lift
- size of the lift is 34 ¼ by 53 ¼ inches

AB - grant for lift dimensions

MB - second – carries

TH - level of exit discharge from the basement
- there is an a and b option under 20.11.2

- either a ramp or an exit balcony, and his plans show area of rescue assistance proposed

MB - no variance needed, on the condition that accessible emergency egress signage provided and fire department notified

RG - second – carries

MB - funding noted for the swipe card

MB - amend lift variance to allow the variance for the platform size, on the condition that keys be removed and swipe cards be installed; and allow that the lift be locked, on the condition swipe as proposed

RG - second – carries

26) Incoming Discussion: Commercial Building, 66 Central St., Wellesley (V13-267)

TH - EXHIBIT – corner post LULA proposed
- 51” by 51”

CS - grant as proposed

MB - second - carries

Short Break

27) Discussion: 11 North Restaurant, 11 North Water St., Edgartown (V12-206)

TH - EXHIBIT – article that 11 North is closed
- called the owner of the building, and notified him that access is still required for any new tenants
- owner wants time to comply
- need to cancel the hearing and notify all parties
- maintain the closure order that the building cannot be opened for any purposes until access can be provided

CS - cancel the hearing without prejudice, based on the fact that the owner has asked for more time to comply with the requirements of 521 CMR

RG - second – carries

CS - the building shall remain closed until all access issues are resolved before the Board

RG - second - carries

28) Incoming: Elements (aka AMC Fitness), 100 Washington St., Canton (V14-001)

TH - EXHIBIT – variance application
- sauna unit inaccessible, seeking a variance for the lack of access into the sauna
- bought the sauna unit from the company, and ordered the unit to fit into existing space within the building
- have since found out that there are accessible sauna units, would require a huge taking of space

CS - deny
RG - second – carries

29) Incoming: Institute of Contemporary, 100 Northern Ave., Boston (V13-325)

TH - EXHIBIT – variance application
- in 2005 went just to the elevator board for the installation

CS - grant as proposed, for new technology, lift, stairs
MB - second - carries

30) Discussion: Boston University Law School

TH - EXHIBIT – lift product
- new design to be used in moot courtroom
- need a variance from the elevator board and awaiting approval of AAB

CS - approve on the condition that a variance is submitted
MB - second - carries

31) Discussion: Mixed Use Building, 299 & 301 Newbury St., Boston (V12-159)

TH - EXHIBIT- lease

CS - reviewed the leases that were submitted
- Petitioners stated that they couldn't do anything until 2022 for 299 and 2027 for 301
- there is an automatic extension allowed on the same terms and condition of the original lease

TH - so the conditions will not be the same, if required by the Board to take space to install the lift

CS - 2.2 states “same terms and conditions, except that the rent may be higher and can only be extended once”
- argument is that the tenant has the right to extend the lease with the same terms and conditions
- pg. 9, 7.6 states “compliance with laws”;
- based on that language, if there is an order from a state agency

TH - previously required a number of things by January 1, 2014

MB - plan for compliance for a compliant solution for vertical access, with work to be completed and verified as such by January 1, 2015; plans for the lift to be submitted to the Board by April 1, 2014
AB - second – carries

32) Discussion: Norton High School Auditorium, 66 West Main St., Norton

- TH - architect from Pinck & Co.
- planning to submit variance by February 7, 2014
- seeking a temporary CO while the Board reviews the variance application

CS - grant the issuance of temporary certificate of occupancy

MB - second – carries

33) Discussion: Lodging House, 12 Park Ave., Hull (V12-082)

- TH - EXHIBIT – submittal from William Shine
- Mark Dempsey did a site visit
- Independence Associates is not opposed to the variances requested
- five items requested

MB - move to next meeting

AB - second – carries

34) Discussion: Remaining cases

- TH - Inn at Crystal Cove
- Littleton Pub
- Town Hall, Hatfield
- Sidewalks, Concord Ave., Cambridge
- Bricco Sallumeria Pasta Shop
- Arrowhead Museum
- South Bay House of Correction, Boston
- Shaker Village, Pittsfield

MB - motion to move all of those cases to the next meeting, due to the lateness of the hour

RG - second - carries

35) Discussion: Minutes and Decisions from 12/16/13

CS - accept minutes and decisions from 12/16/13

AB -second –carries pending further vote

36) Advisory Opinion: Bancroft Elementary School, 15 Bancroft Rd., Andover

- TH - café seating area, stairs are provided to stage from audience area, change in level 18” to the stage
- accessible route requires someone to leave public view, behind a door that is often locked and behind a wall that brings people to the stage

CS - no it does not

AB - second – carries pending further vote

37) Advisory Opinion: Commercial Building, 104 Newbury St., Route 1, Peabody

- TH
- new two-story building
 - second floor of the building was proposed to be storage
 - quit-claim covenant states that the second floor is restricted until an elevator is installed per requirements of 521 CMR
 - now proposes to provide offices at the second floor, and employee only
 - now going to be a multi-tenanted building

CS - need more information regarding second floor tenants

MB - second – carries pending additional vote

- End of Meeting -